

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA (Rural
Development),

Plaintiff

v.

JOHN DOE, et al.,

Defendants

CIVIL NO. 07-1718 (JP)

JUDGMENT BY DEFAULT

The Court has before it Plaintiff's motion for default judgment (No. 8). The motion is **GRANTED**. Upon Plaintiff's motion for judgment, and upon entry of default on January 9, 2008, by the Clerk of this Court against Defendants for their failure to plead or file an answer to the Complaint or otherwise appear in the above cause (No. 9), Plaintiff is entitled to a judgment by default, and the Court being fully advised of the following facts makes such orders as listed below.

Articles 132 and 134 of the Mortgage Law of 1979 as amended (30 L.P.R.A. 2436 and 2458) provide that when a mortgage note has been lost, the mortgage may be canceled by the Registrar of the Property only by judicial decree obtained by a court of competent jurisdiction in a civil proceeding such as authorized by the Code of Civil Procedure of Puerto Rico, in which the court decrees that the mortgage obligation is extinguished.

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IT IS HEREBY ORDERED that:

1. On or before February 25, 1980, HORACIO NEFTALI RUIZ-MATIAS and YDITH CANCEL-PEREZ received from the United States of America, acting through the Rural Development, a loan in the amount of \$28,000.00 on the property described at paragraph 3 below.

2. In evidence of the money lent by Plaintiff United States of America, HORACIO NEFTALI RUIZ-MATIAS and YDITH CANCEL-PEREZ executed in favor of Plaintiff a promissory note dated February 25, 1980, in the amount of \$28,000.00 at 10% interest rate, payable to Rural Development.

3. To secure the payment of said mortgage note, HORACIO NEFTALI RUIZ-MATIAS and YDITH CANCEL-PEREZ executed a First Mortgage in favor of Plaintiff on February 25, 1980, by First Mortgage Deed No. 110 before Notary Public José R. Servera-Ramos, a copy of which was included in the complaint, over the following described property:

RUSTICA: Parcela radicada en el BARRIO FLORIDA, del término municipal de San Lorenzo, con una cabida superficial de 532.00 metros cuadrados, en lindes por el Norte y Oeste, en 28.00 metros y en 16.00 metros respectivamente, con la finca principal de la cual se segrega; por el Sur, en 30.00 metros, con parcela segregada; y por el Este, en 22.00 metros, con la Carretera No. 928. Enclava una estructura de madera dedicada a vivienda.

4. The aforementioned First Mortgage Deed executed in favor of Plaintiff is duly recorded in the Registry of Property in San Germán, at page 161, volume 358 of San Germán, property number 11599, where said mortgage appears in full force and effect.

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5. According to information received from the Rural Development, the original promissory note of \$28,000.00 and dated February 25, 1980, described in paragraph 2 above, while in the possession of and under the custody of said agency, was apparently lost, misplaced or destroyed, and although a thorough search has been made, it has been unable to find or locate said note.

6. Indebtedness assumed by HORACIO NEFTALI RUIZ-MATIAS and YDITH CANCEL-PEREZ to Plaintiff United States of America has been paid in full.

WHEREFORE, IT IS HEREBY ORDERED that:

a. Judgment be entered against the Defendants herein declaring that the aforementioned mortgage obligation is extinguished.

b. The promissory notes in the amount of \$28,000.00 of principal with interest at the rate of 10% per annum, on the unpaid balance executed by HORACIO NEFTALI RUIZ-MATIAS and YDITH CANCEL-PEREZ on February 25, 1980, in the possession of whomsoever if may now be or become in the future, is hereby declared null and void, and therefore canceled.

c. The Registrar of Property of San Germán, Puerto Rico, cancel and nullify the real estate voluntary mortgage executed by HORACIO NEFTALI RUIZ-MATIAS and YDITH CANCEL-PEREZ to secure the payment of the promissory note above described and referred to in paragraphs 4 and 5 of the complaint, constituted by the terms of Voluntary Mortgage Deed No. 110, executed before Notary Public

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José R. Servera-Ramos on February 25, 1980 and which was recorded in the Registry of Property of San Germán, Puerto Rico, at page 161, volume 358 of San Germán, Puerto Rico, property number 11599.

IT IS SO ORDERED.

In San Juan, Puerto Rico, this 10th day of January, 2008.

s/Jaime Pieras, Jr.
JAIME PIERAS, JR.
U.S. SENIOR DISTRICT JUDGE